



USPS WORKERS COMPENSATION

**OPTIONS AVAILABLE TO ASSIST THE UNITED STATES POSTAL SERVICE FOR
IMPROVING DELIVERY OF WORKERS COMPENSATION BENEFITS, REDUCING COSTS,
AND STRENGTHENING ACCOUNTABILITY**

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I. Introduction

Increased attention to the operations, costs, and overall institutional viability of the United States Postal Service (USPS) has led to comprehensive analysis of the organization from both USPS's most senior leadership and numerous external sources. Indeed, it is estimated by postal specialists that the USPS workers compensation claims costs contributes almost one-half cent of the first class postage rate!

At the final hearing of the President's Commission, the Comptroller General of the United States provided testimony of the subject of workers compensation costs and liability of the United States Postal Service. Deloitte & Touche are specialists in the field of workers compensation across the private and public sector. The Comptroller General's testimony lays an excellent foundation but additional development of the issue, study, and analysis must be done. Following our review of available testimony and related oversight of the USPS workers compensation program, as well as interviews conducted in government and USPS management, we would like to offer the following perspective on to deepen the Commission's knowledge.

To summarize, the issues affecting workers compensation benefits delivery and rising costs include:

- claim severity (as measured by cost per claim),
- systemic problems with benefit structures (as compared to Workers Compensation in private industry), and,

- serious issues relating to standards of performance in the claims adjudication process.

The steadily increasing costs associated with workers compensation benefits provided by the USPS is precisely the kind of issue that can benefit from the Commission's efforts.

On the one hand the USPS workers compensation program and the people it serves share many of the same histories and needs as experienced by injured workers and their employers as is seen across the globe. On the other hand, the USPS program is governed, and in many ways constrained, by a statutory framework that appears to foster structural problems affecting costs, internal controls, accountability, and therefore the quality of benefits delivery to employees.

The USPS workers compensation program is large. It is also joined under the Federal umbrella by several other agencies (e.g. Department of Defense, Department of the Treasury). However, there is an even larger field of public and private sector organizations meeting workers compensation needs across the Nation, and in other countries, that provide a range of available alternatives, if not best practices, to consider.

We believe that there are significant options and alternatives that will lead to conventional and well-established practices improving delivery of workers compensation benefits, reducing costs, and strengthening accountability at the USPS. Furthermore, we believe it is appropriate for the Commission and others to expect the USPS itself to own the solution, not simply own the problems related to workers compensation. Our preliminary review suggests that this is consistent with the leadership goals of the USPS

executive team, and as has been demonstrated in other public and private sector workers compensation programs, that a transition to available alternatives and options can be conducted in a, sequenced, managed, and accountable manner.

To be effective, however, the same partners, stakeholders, and overseers involved to date, need to be working together, perhaps more effectively than ever to ensure that the legal framework, and operating structure and processes serve as bridges, not barriers to improved workers compensation benefits delivery, cost controls, and accountability.

II. Building a Knowledge Base

As a professional organization working globally with employers and employees in the area of workers compensation and disability programs, Deloitte & Touche shares the Commission's philosophy of building a solid foundation of knowledge in order to advise leaders and organizations. No problem can be solved purely in isolation from other organizations, people, processes, and technology. Therefore in examining the USPS workers compensation program we have spent more than six months examining these problems:

- in the context of the Federal government
- delving into written reports and oversight activity
- closely studying the relationships and potential impact, risks, and benefits of change
- meeting and discussing the issues, needs, and possible options with USPS overseers, executives, and outside specialists.

Steadily increasing costs of workers compensation (WC) at USPS have triggered increased focus on the program as jointly administered by USPS and Department of

Labor's Office of Workers Compensation Programs (OWCP). The USPS itself has addressed the issues in its own transformation plan. Studies by the General Accounting Office and testimony offered by the USPS Inspector General to congressional committees in 2002, and the Manager of Corporate Financial Planning for the President's Commission on the USPS delivered on April 29, 2003 have begun to add to the knowledge base.

These recent studies articulate alarming increases in claim severity (as measured by cost per claim), systemic problems with benefit structures (as compared to WC in private industry) and serious issues relating to standards of performance in the claims adjudication process.

Our goal has been to better understand the issues, to clarify assumptions of the process as inferred from available data, and to gauge USPS executive management interest in pursuing available improvement options. In our own review, interviews, and meetings we found USPS management highly motivated to improve Workers Compensation results and learned of significant safety initiatives undertaken in recent years that have yielded substantial injury/illness claim frequency (numbers of claims) reductions. Post-injury management, or control of losses after they occur, has yielded much smaller gains and has likely not returned results sufficient to offset systemic inflation indicators of increased medical costs and wage/salary replacement rates. Costs of Workers Compensation at USPS will continue to rise at unacceptable levels without major restructuring of the present systems and related processes.

To this information gathering we have added our perspectives to offer relevant findings, meaningful recommendations and realistic options and next steps derived from our extensive experience with:

- with federal and other public sector agencies
- major Workers Compensation insurance carriers and third-party administrators
- large private employers

A sample list of clients with whom we have worked on related issues follows the options section is presented below.

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| • State of Illinois – Department of Central Management Services | • Wal-Mart |
| • State of Illinois – Department of Human Services, Risk Management Division | • Blue Cross Blue Shield of Michigan |
| • ConAgra, Inc. | • Ross Stores |
| • City of San Diego | • CUNA Mutual Group / CUMIS Group |
| • Metra (commuter rail system), City of Chicago | • Pepsi Bottling Group |
| • Metropolitan Government of Nashville and Davidson County, Tennessee | • Commonwealth of Puerto Rico |
| • Federal Emergency Management Agency, National Flood Insurance Program | • Province of Alberta, Workers Compensation Board (WCB) |
| • New York Metropolitan Transportation Authority | • Saskatchewan Workers Compensation Board |
| • State of Connecticut Second Injury Fund | • Worker Safety and Insurance Board, Ontario |
| | • Blockbuster Video |
| | • Foot Locker, Inc. |
| | • United Technologies Corp. |

Deloitte & Touche (D&T) is pleased to present the following summary of issues and potential solutions for consideration in the context of three essential milestones for achieving excellence in the USPS workers compensation program:

1. Improving benefit delivery systems to injured/ill employees of USPS,
2. Reducing costs, and

3. Strengthening accountability among constituents to the claims process.

III. Known Issues

Many of the increasing cost drivers are currently out of USPS' control. The Postal Service operates with unique exposures and is virtually unable to engineer hazards out of many occupations. USPS has no control over DOL's claim handling and related costs, and is legally constrained from applying many industry leading practices for cost control.

A. Administration under the Federal Employees Compensation Act (FECA)

Operation of the WC program under the Federal Employees Compensation Act (FECA) guarantees more benefits to claimants, and precludes managed care initiatives long-proven to have positive impact on both costs and health care delivery in state programs. Major differences exist between FECA and state WC programs. Specifically FECA provides:

1. A higher indemnity rate for replacement of lost wages (up to 75%),
2. Inability to direct employees to specific health care providers for initial medical treatment,
3. A waiting period of 45 days for indemnity benefits with a provision for full wage replacement under Continuation of Pay (COP) provisions.

The impact of these costs on postal rates is significant. Rough calculations yield the following: if one billion dollars (\$1B) equals 1 cent (\$0.01) for the 1st class stamp, and \$1.5B equals approximately 1 cent for all rates including the stamp, the \$700M of WC losses comprises almost 1/2 cent on each and every piece of mail. This scenario is based on losses only and does not include the costs of claims administration.

Claim costs in 2001 per GAO's report of 12/20/02 indicate \$424,600,000 paid in indemnity claim costs (compensation for lost wages and scheduled awards) and \$269,600,000 paid in medical claim costs. This translates to 61% of losses for indemnity and 39% for medical. Medical/indemnity percentages of state regulated programs approximate 50/50 in recent years, which further supports the notion that under the FECA employees reap more in benefits and stay out of work longer than in private industry.

These issues are well documented in the statement of Mr. William P. Tayman, Jr., Manager, Corporate Financial Planning delivered to this commission on April 29, 2003. USPS appropriately supports DOL's drafted legislation in 2002 to amend the FECA and its elimination of employee financial disincentives to return to work, and changes in the compensation rate, waiting period, and subrogation/third-party recovery provisions to align with better cost controlled state programs.

As Mr. Tayman testified, these initiatives are a step in the right direction, but more opportunities exist to fine-tune legislative reforms to both enhance benefit delivery and contain costs. Possible alternatives for considerations follow:

- 1) Removal of USPS WC from the FECA and into state regulated programs. Benefit levels are more sensitive to local employment conditions, specifically state-wide average weekly wages used to calculate claimant minimum and maximum indemnity rates. A majority of state laws carry managed care provisions that in some combination: allow employer direction of claimants to pre-selected occupational health care providers, mandate utilization review, discount provider fees to regularly updated schedules, and regulate independent medical examination where medical treatment disputes exist. All of these provisions have demonstrated significant cost reductions in state controlled systems, and are all absent in the FECA. Additionally, many states have implemented Special Investigative Units (SIU) that conduct fraud investigations of both providers and claimants on behalf of employers

- 2) Insertion of the above provisions in FECA drafted legislation reform

We understand that removal of the USPS WC program from the FECA would require enabling legislation and considerable efforts in collective bargaining to adopt new provisions, but we also believe a major restructuring of current programs is necessary to contain spiraling costs that will only continue to get worse without such reforms.

B. Standards of Claims Administration

The 45-day “elimination period” for benefits and COP, and employee choice of health care provider provisions, as defined under the FECA serve to undermine early intervention strategies important to WC cost containment. Immediate channeling of injured/ill employees to appropriate treatment providers and specialists is compromised. COP at full rates provides a financial disincentive for employees to return to work. These provisions are guaranteed by statute and OWCP cannot be held to industry best practice comparisons in these contexts.

Current claim processing standards at OWCP lag behind those of major WC insurance carriers and third-party administrators. OWCP’s standards appear to be exclusively “activity” driven, i.e required timing for claims filing by attendant constituents (injured/ill employee, USPS supervisor, OWCP claim examiner). Specifically:

- Injured employees are allowed 30 days from date of injury to give written notice to USPS supervisors,
- USPS supervisors are allowed another 10 days from receipt of claim from employees to notify OWCP,
- OWCP targets that claims examiners will process 90 percent of traumatic injury claims within 45 days from receipt of claim from USPS supervisors to decide compensability,
- OWCP targets that claims examiners will process 70% of occupational disease claims within 6 months from receipt of claim from USPS supervisors to decide compensability.

In aggregate, the required timing of these filings results in:

- 85 days from the date of injury before a decision is required for benefits eligibility in traumatic injury cases,
- 222 days from onset of occupational illness before an eligibility decision is rendered by OWCP.

(Flexibility is required in administration of occupational illness claims due to long latency periods and sometimes complicated medical investigation. We disagree with percentage targets of processed claims for traumatic injury however, and maintain that a strict standard of 100% should be implemented).

In using industry best practice comparisons, claims for injury by employees are required by employers within 24 hours of occurrence, employer supervisors are required to report to the claims administrator within 48 hours of notice from employees. Claims examiners are required to make “3-Point Contact” (with injured employee, medical provider and employer) within 48 hours of receipt of claim, and a compensability decision rendered within 14 days. Obviously the best practice 17 day aggregate from injury to eligibility decision affords greater control than the 85 day window as administered by OWCP.

We have found no evidence to date among OWCP rules and regulations of “results” or “outcome” related standards associated with specific types of claims, diagnoses/medical conditions, etc. Experience based medical treatment protocols and disability duration guidelines are standard tools used in other major WC settings that help to guide reasonableness of treatment decisions and return-to-work expectations. If these are indeed in place at OWCP, USPS should be made aware of their usage.

At the result of a joint recommendation by USPS and OWCP, OWCP has embarked on a pilot program of using a national WC medical provider organization (First Health) to test the viability of accelerated channeling to network providers and discounted provider fees. We strongly encourage further rollout and suggest a Request for Information be developed to solicit the marketplace for competitive analysis for national implementation. Deloitte & Touche further recommends development of standard fee schedules to govern provider billings.

C. Lack of Accountability of DOL to USPS in Claims Administration

Controls common in large-scale, self-insured WC employer-administrator settings are conspicuously absent in the USPS-OWCP program.

- OWCP is not required to articulate specific claim management strategies to USPS,
- OWCP is not required to conduct regularly scheduled claims reviews with USPS,
- USPS retains no “right to audit” OWCP performance,
- USPS has no control over OWCP administrative costs. USPS is required to make payment with no line item accounting.

D. Additional Issues

Additional issues exist and need to be closely examined. One in particular is the inability of the USPS to contact treating physicians. This constitutes a significant impediment to effective case management. It serves to further strain resources at OWCP and frustrate the USPS over lack of information, inexpedient handling, and attendant accountability issues.

We conclude that the servicing standards for claims administration do not approach leading practices afforded by insurance industry leaders in WC, and that major cost savings opportunities are available through analysis of potential alternatives.

OPTION 1

USPS movement toward a private sector model employing the use of a national WC third-party administrator (TPA) to replace DOL/OWCP. This would afford USPS better control over administration of its claims, and make USPS more directly accountable for benefit delivery systems and cost containment. TPAs with the scale necessary to service USPS have institutionalized the best practices enumerated above, and cost containment initiatives would be accelerated when compared to other alternatives. Competitive bidding would likely result in reduced administrative costs, and give USPS authority available to most employers to make changes as required. We recognize that this option would require legislative change to opt out of the OWCP.

OPTION 2

Collaboration between USPS and DOL and a mandate at executive levels to implement best practices as described herein within a reasonable timeframe. An independent consultancy should lead and facilitate the process to control for “turf” issues, provide

cost-benefit analyses of articulated alternatives, and to impartially report on progress. Specific timelines should be drawn for completion of required actions.

IV. Recommendations for Commission for USPS Feasibility Study

A. Program Quality Assessment

Deloitte & Touche recommends an independent review of the USPS-OWCP program quality and detailed best practice gap analysis. In addition to the knowledge base that has already been developing in this area from within government, there needs to be a degree of independent and objective expertise from the field of professionals who address and help resolve workers compensation issues. Studies to date have been effective in quantifying the costs of the program and related problems but have done little to articulate specific fixes beyond conceptual frameworks. The many constituents to the WC process yield a need to identify gaps and bottlenecks by responsible party, and to map specific strategies, required actions and timelines to implement improvements. Such a study can be undertaken by the Commission, and it can also be part of the USPS's own process of owning the solution to its challenges in the workers compensation arena.

B. Feasibility Study of Legislative Reforms

Deloitte & Touche recommends that the Commission seriously consider ways to enable the USPS to address the feasibility and impact of the different options discussed above. Addressing the overall need to amend the current statutory framework is an essential part of that review. Major stakeholders must be involved in the process to include USPS, DOL, organized labor and executive and legislative branch representatives.

V. Closing Comments

Deloitte and Touche appreciates the opportunity to have submitted these views and is prepared to answer questions and provide further information and assistance as requested.

For additional information please contact.

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